

INTRODUCTION

This is a guide to the [Industrial Site Recovery Act \(ISRA\)](#) (N.J.S.A. 13:1K and N.J.A.C. 7:26B), which is implemented by the New Jersey Department of Environmental Protection (NJDEP). This guide was developed to provide members of the regulated community with an understanding of the Industrial Site Recovery Act, its concepts, and its basic implementation requirements.

Senate Bill No. 1070 was introduced on July 23, 1992 and represented the Legislature's efforts to reform the process by which contaminated sites are remediated. On July 16, 1993, Senate Bill No. 1070 was signed into law as P.L. 1993, c.139. Sections 1 through 22 of P.L. 1993, c.139, supplement and amend the 1983 Environmental Cleanup Responsibility Act (ECRA), including renaming the law to ISRA. Additional provisions of P.L. 1993, c.139 established the Hazardous Discharge Remediation Act, N.J.S.A. 58:10B-1 et seq. and amended the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11, et seq.

The ISRA Regulations ([N.J.A.C. 7:26B](#)) were adopted on November 17, 1997 and amendments to these regulations were adopted on August 2, 1999.

ISRA imposes certain preconditions on the sale, transfer, or closure of "industrial establishments" involved in the generation, manufacture, refining, transportation, treatment, storage, handling or disposal of hazardous substances or wastes.

The Brownfield and Contaminated Site Remediation Act was signed into law on January 6, 1998 and provides for the latest changes in New Jersey's environmental cleanup structure. The Act, formally a part of Senate Bill Number 39 (Public Law 1997, c.278), adds new provisions that advance brownfields reuse as part of a comprehensive program for urban redevelopment. The overall law amends the Hazardous Discharge Site Remediation Act, Spill Compensation and Control Act, Industrial Site Recovery Act, Environmental Opportunity Zone Act and other key statutes.

Why ISRA?

In 1983, the Legislature found that discharges of toxic chemicals dating back to early industrialization have left a legacy of contaminated industrial property in this State. In response to the growing public awareness and concern of the risks to the public health and the environment and the potential costs to the State to clean up abandoned contaminated sites, the Legislature enacted the "Environmental Cleanup and Responsibility Act". The Legislature also found that the act's imposition of a cleanup plan approval before the transfer or upon the closing of an industrial establishment and the requirement to establish a funding source for the cleanup are in the general public interest by ensuring the discovery of contamination, by ensuring that funding for cleanup is set aside at the time it is available from a transfer or closing, and by ensuring that contaminated property is not abandoned to the State for cleanup.

ISRA furthers the policy of this State to protect the public health and safety, and the environment by promoting efficient and timely cleanups and by eliminating any unnecessary financial burden on the persons responsible for remediating contaminated sites. This has been achieved by streamlining the regulatory process, by establishing summary administrative procedures for industrial establishments that have previously undergone an environmental review, and by reducing oversight of those industrial establishments where less extensive regulatory review will ensure the same degree of protection to public health, safety, and the environment. The new procedures in ISRA guard against redundancy from the regulatory process and to minimize governmental involvement in certain business transactions.

The NJDEP's goal is to ensure that industrial establishments have been remediated to an acceptable condition upon sale, transfer, or closure without jeopardizing the time needed to finalize real estate and business transactions. However, accomplishing this goal not only depends upon the timely responses of the NJDEP, but is also contingent upon the timeliness in which ISRA subject parties submit their administrative and technical data for the NJDEP's review.

Who do I contact regarding ISRA?

ISRA is implemented by three elements within the [NJDEP's Division of Responsible Party Site Remediation](#): the Industrial Site Evaluation Element, the Discharge Response Element, and the Responsible Party Cleanup Element.

1. The [Bureau of Field Operations \(BFO\)](#) is within the Discharge Response Element. The BFO staff is responsible for the Initial Notice Review, Limited Site Reviews, Remediation in Progress Waivers, Regulated Underground Storage Tank Waivers, Area of Concern Waivers, Minimal Environmental Concern Waivers, and Expedited Reviews. BFO receives all new cases and informs the owners/operators that they must complete a Preliminary Assessment/Site Investigation (PA/SI). BFO reviews the PA/SI and if the case requires oversight for remediation, then it is transferred to BEECRA where it remains until closure. You may call BFO at (609) 633-0708 for additional information.
2. The [Bureau of Environmental Evaluation, Cleanup and Responsibility Assessment \(BEECRA\)](#) is within the Industrial Site Evaluation Element. The BEECRA staff is responsible for ISRA Applicability and case management of contaminated sites. The applicability section of BEECRA determines whether or not an industrial establishment is subject to ISRA and review Limited Conveyance and DeMinimis Quantity Exemption applications. BEECRA case management oversees all active contaminated ISRA cases until a No Further Action (NFA) or a Remedial Action Workplan (RAW) is approved and oversees the implementation of approved RAWs. You may call BEECRA at (609) 777-0899 for additional information.

3. [The Bureau of Fund Management, Compliance & Recovery](#) is within the Responsible Party Cleanup Element. This Bureau is responsible for the review of Remediation Agreements and Remediation Funding Sources. Also within this Bureau is the Environmental Claims Administration which reviews proposals for financial assistance and grants from the Hazardous Discharge Site Remediation Fund. You may call this Bureau at (609) 633-1455 or (609) 633-0719 for additional information.

How do I get forms or applications?

Applications and forms are available from the NJDEP Web Page and the NJDEP's Fax on Demand System. The Web Page can be accessed at: <http://www.state.nj.us/dep/srp>. Most of the applications and forms are available from the Internet in three different formats; PDF, Word 97 and zipped applications.

BEECRA also has a Fax on Demand service. This service makes available many of the applications and forms frequently used as part of the ISRA regulatory process. This service is geared toward those who cannot download these forms from the Internet, but have a fax machine.

The way the service works is the caller dials (609) 292-0464 and chooses a document he wishes to receive. Directions and a Master List of documents are available through the Fax on Demand. The caller then inputs the phone number to which the document is to be faxed using the telephone number pad. The document will then be sent via fax to the designated phone number.

If you are not able to access either of these systems you may call (609) 777-0899 to acquire the forms and applications.

The ISRA Process

The ISRA process begins with determining if the Act applies to your type of business and transaction. The provisions of ISRA only apply to *industrial establishments*.

What is an industrial establishment?

The term "industrial establishment" refers to the type of business operations and transactions that would subject a facility to review under ISRA. An industrial establishment must meet each of the following three criteria:

1. The place of business must have a *primary* Standard Industrial Classification (commonly known as "SIC") major group number within 22-39 inclusive, 46-49 inclusive, 51 or 76 as designated in, and determined in accordance with, the procedures described in the SIC Manual published by the Federal Office of Management and Budget. [Exceptions within these SIC groups](#) are provided at N.J.A.C. 7:26B-2.1;
2. The place of business must have been engaged in operations on or after December 31, 1983; and
3. The place of business must involve the generation, manufacture, refining, transportation, treatment, storage, handling, or disposal of hazardous substances or hazardous wastes.

What is the mechanism that triggers ISRA compliance requirements?

ISRA requires owners or operators of an industrial establishment planning to close or transfer ownership or operations to notify the NJDEP. After the submittal of the notice, an owner or operator of an industrial establishment is required to obtain a no further action letter from the NJDEP or NJDEP approval of a remedial action workplan or remediation agreement as a precondition for the closing of operations or transferring of ownership or operations at these facilities.

Who must comply with ISRA?

Both the owner of the real property and operator of the industrial establishment are jointly liable for compliance with ISRA.

How do I determine if I am required to comply with ISRA?

An owner or operator who answers "Yes" to each of the following questions is required to comply with ISRA.

1. Does the business have a subject Standard Industrial Classification (SIC) (The major groups covered are SIC numbers 22-39, 46-49, 51, and 76)?
2. Were operations of an industrial establishment conducted after December 31, 1983?
3. Were hazardous substances or hazardous wastes used on-site?
4. Is the owner or operator planning to close operations or transfer ownership or operations of an industrial establishment as defined by ISRA and N.J.A.C. 7:26B?

The NJDEP established an applicability determination service to help the public make informed decisions concerning ISRA applicability and to provide written determinations regarding ISRA applicability. If you require a written determination you may submit an [Application for an Applicability Determination](#) and a \$200 fee. If you have a general question regarding ISRA applicability you may call (609) 633-1434 or (609) 292-1871. Please note a written determination from the NJDEP is not required under State regulation or statute, rather is a service the NJDEP provides if requested.

At this point, the applicant should also determine if any of the waivers, exemptions or expedited review processes described below would apply.

What if my facility is subject to ISRA?

If you determine that your facility is subject to ISRA and your facility does not qualify for any of the waivers, exemptions or expedited review processes described below, then you are required to perform all necessary remediation at your facility. During the standard ISRA process, the owners or operators of industrial establishments must notify the NJDEP within five days of any triggering event by filing a [General Information Notice](#) (GIN). Triggering events are specifically enumerated in ISRA, N.J.S.A. 13:1K-8 and include the sale of business or property, cessation of operations and bankruptcy. Once the owner or operator notify NJDEP, the owner or operator must conduct a remediation in accordance with the Technical Requirements for Site Remediation N.J.A.C. 7:26E, including a [Preliminary Assessment](#) (PA) to identify potential Areas of Concern (AOCs) and a Site Investigation (SI) to determine if any contaminants are present above any applicable remediation standards. If there is contamination documented in the SI Report, the owner or operator must conduct a **Remedial Investigation** (RI) to determine the nature and extent of contamination. The next step is the proposal of a **Remedial Action Workplan** (RAW) detailing the measures necessary to remediate contaminated property to the applicable remediation standard. The owner or operator may submit a [Negative Declaration](#) affidavit when there have been no discharges of hazardous substances or wastes on the property or that any such discharges were cleaned up to the satisfaction of the NJDEP. The NJDEP approves of the Negative Declaration by issuance of a **No Further Action Letter**\Covenant Not to Sue letter.

In the case of a proposed transfer of ownership, the owner or operator must submit either a Negative Declaration or a RAW with the NJDEP prior to the actual transfer. When closing operations, the owner or operator must notify the NJDEP subsequent to closing or of its public release of its decision to close and submit to the NJDEP a Negative Declaration or a RAW. This is all initiated through the filing of the ISRA application forms and/or reports in accordance with the Technical Requirements For Site Remediation, N.J.A.C. 7:26E (General Information Notice, Preliminary Assessment Report forms etc.). The execution of a [Remediation Agreement](#) between the owner or operator and the NJDEP would, in addition to an approved Negative Declaration or RAW, allow the transaction to be consummated prior to full ISRA compliance. The NJDEP oversees the case until the industrial establishment is satisfactorily remediated and the NJDEP issues a No Further Action

(NFA) Letter\Covenant Not to Sue letter.

Expedited Processes, Exemptions and Waivers

This section describes the various applications for expedited processes, exemptions and waivers that are provided by ISRA regulations. These applications allow the owners and operators of industrial establishments to proceed with their transactions while providing the NJDEP with the needed information to complete its review of the sites on an expedited basis. It is emphasized that whenever an application requires a certification, evaluation or investigation of a facility, these must be performed pursuant to the Technical Requirements for Site Remediation (TRSR), N.J.A.C. 7:26E.

A [Certificate of Limited Conveyance](#), N.J.S.A. 13:1K-11.8, N.J.A.C. 7:26B-5.7, allows the owner of the real property to transfer up to one third of the appraised value of the real property where an industrial establishment exists without having to remediate the entire industrial establishment. This certificate is valid for three years after the issuance date. Before completing the transfer, the owner or operator must file a GIN, remediate the portion to be conveyed, and obtain a NFA approval for that portion of the industrial establishment subject to the transfer.

A [DeMinimis Quantity Exemption](#), N.J.S.A. 13:1K-9.7, N.J.A.C. 7:26B-2.3, allows the owner or operator to close operations or transfer ownership or operations without conducting a remediation pursuant to ISRA under specific conditions. The owner or operator must submit a DeMinimis Quantity Exemption application and a \$200 fee and obtain approval by the NJDEP prior to the transfer or closure. The required DeMinimis quantity conditions exist if the total quantity of hazardous substances and hazardous wastes generated, manufactured, refined, transported, treated, stored, handled or disposed of at the industrial establishment at any one time during the owner's or operator's period of ownership or operations:

- 1) does not exceed 500 pounds or 55 gallons; or
- 2) if a hazardous substance or hazardous waste is mixed with non-hazardous substances, the total quantity in the mixture does not exceed 500 pounds or 55 gallons; or
- 3) if, in the aggregate, hydraulic or lubricating oil, does not exceed 220 gallons.

A [Limited Site Review](#), N.J.S.A. 13:1K-11.3, N.J.A.C. 7:26B-5.5 allows an owner or operator to remediate only those area(s) of concern at an industrial establishment where a discharge, subsequent to a prior remediation and issuance of a No Further Action letter, has occurred. The owner or operator must submit a limited site review application and certify that this AOC was either not remediated or remediated but not reviewed and approved by the NJDEP. As a result, the NJDEP only reviews that AOC and not the entire establishment. The goal of the NJDEP for processing this application is 45 days upon receipt of a complete application.

A [Remediation in Progress Waiver](#), N.J.S.A. 13:1K-11.5, N.J.A.C. 7:26B-5.4, allows an owner or operator of an industrial establishment to close operations or transfer ownership or operations if the site is already undergoing remediation with NJDEP oversight. The owner or operator must submit a Remediation in Progress Waiver application, be able to certify that there have been no discharges at the site during the owner's or operator's ownership or operations, and that a remediation funding source is in place. If the NJDEP approves the waiver, the remediation proceeds under the existing case until NJDEP issues a No Further Action\Covenant Not to Sue letter. The goal of the NJDEP for processing the Remediation in Progress Waiver application is 15 days upon receipt of a complete application.

A [Regulated Underground Storage Tank Only Waiver](#), N.J.S.A. 13:1K-11.6, N.J.A.C. 7:26B-5.3, allows an owner or operator of an industrial establishment to close operations or transfer ownership or operations without conducting remediation pursuant to ISRA if the only AOC is a regulated Underground Storage Tank (UST) or the only discharges at the site are from regulated USTs. The owner or operator must submit an Underground Storage Tank Waiver application and preliminary assessment. If the NJDEP approves the waiver, the remediation continues with the existing BUST case until NJDEP issues a No Further Action\Covenant Not to Sue letter. The goal of the NJDEP for processing this application is 15 days upon receipt of a complete application.

An [Area of Concern Waiver](#), N.J.S.A. 13:1K-11.4, N.J.A.C. 7:26B-5.2, relieves an owner or operator of an industrial establishment of the requirement to perform a remediation pursuant to ISRA for any AOC at the industrial establishment for which a NFA approval exists and no new discharges have occurred at the AOC since the NFA was approved. The owner or operator must submit an area of concern waiver application which includes a preliminary assessment and site investigation. The goal of the NJDEP for processing this application is 15 days from receipt of a complete application.

A [Minimal Environmental Concern Waiver](#), N.J.S.A. 13:1K-11.7, N.J.A.C. 7:26B-5.6 allows an owner or operator to close operations or transfer ownership or operations at an industrial establishment with two or less soil AOCs requiring remediation. The AOCs cannot be a threat to drinking water or an immediate environmental concern. The owner or operator must submit a minimal environmental concern application which includes a preliminary assessment, site investigation and remedial investigation. The goal of the NJDEP for processing this application is 30 days from receipt of a complete application. If the NJDEP approves the waiver, the transaction can occur without NJDEP approval of a RAW or Remediation Agreement. Within six months after NJDEP's approval of the waiver, the owner or operator shall implement the remedial action and submit the remedial action report to the NJDEP.

An [Expedited Review](#), N.J.S.A. 13:1K-11.2, N.J.A.C. 7:26B-5.1, allows an owner or operator of an industrial establishment, that previously received a No Further Action letter, to close operations or transfer ownership or operations, without remediation when there has been no discharge subsequent to the No Further Action letter or a subsequent discharge occurred and the subsequent discharge has also received a No Further Action letter. The owner or operator must submit an expedited review application and a Negative Declaration. The goal of the NJDEP for processing this application is 15 days from receipt of a complete application.

Remediation Funding Sources

This section briefly describes the types of Remediation Funding Sources and the requirements for each. A Remediation Funding Source is the method of financing required in accordance with N.J.S.A. 58:10B-3 to be established by a person performing the remediation under a Remediation Agreement or Remedial Action Workplan. Guidelines for all Remediation funding sources are as follows:

AMOUNT REQUIRED: Equal to or greater than the cost estimate of the implementation of the remediation as approved by NJDEP or as provided for in the Remediation Agreement.

WHEN TO ESTABLISH: See each type below.

INCREASE IN AMOUNT: At any such time it is determined the cost estimate to remediate increases.

DECREASE IN AMOUNT: Any request for a decrease shall be based upon a written request to NJDEP of the remaining costs to be incurred.

RELEASE: A remediation funding source will be returned by NJDEP for termination to the issuing institution upon receipt of an alternative remediation funding or upon NJDEP's notification that the person responsible for establishing a remediation funding source is no longer responsible for maintaining.

USE OF GRANTS OR FINANCIAL ASSISTANCE: All or part of the remediation funding source may be established by a grant or financial assistance from the Hazardous Discharge Site Remediation Fund.

Types of Remediation Funding Sources

A [LINE OF CREDIT](#) allows a person establishing it to borrow money up to a limit established in a written agreement in order to pay for the cost of the remediation. Signifies a limit of credit extended by a bank to its customer, to the full extent of which the customer may avail itself in its dealing with the bank.

- a. Issuer of a Line of Credit: Person or Institution acceptable to NJDEP
- b. Language of a Line of Credit

A Line of Credit Agreement shall contain the following provisions:

1. It may not be revoked or terminated without written consent of NJDEP; and
2. monies may be released only upon NJDEP's written authorization.

- c. Submission of Line of Credit

An original signed duplicate of the line of credit agreement shall be submitted along with a certification available from NJDEP within 14 days of receipt of Remedial Action workplan approval or as specified in a Remediation Agreement.

An [ENVIRONMENTAL INSURANCE POLICY](#) is a contract whereby an insurer agrees, in return for premiums, on happenings of designated events, to pay certain sum as provided.

- a. Issuer of an Environmental Insurance Policy: entity licensed by the Department of Insurance to transact business in the State of New Jersey
- b. Language of an Environmental Insurance Policy

Environmental Insurance Policy shall contain the following provisions:

1. It may not be revoked or terminated without written consent of NJDEP; and
2. monies may be released only upon NJDEP's written authorization.

- c. Submission of an Environmental Insurance Policy

An original signed duplicate of the environmental insurance policy shall be submitted within 30 days of receipt of Remedial Action Workplan approval or as specified in a Remediation Agreement.

A [REMEDATION TRUST FUND](#) is a fund held by a trustee for the specific of providing funds for the remediation of a site.

- a. Issuer of a Remediation Trust Fund: an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or New Jersey Agency.
- b. Language of a Remediation Trust Fund

Remediation Trust Fund shall contain the following provisions:

- 1. It may not be revoked or terminated without written consent of NJDEP; and
 - 2. monies may be released only upon NJDEP's written authorization.
- c. Submission of a Remediation Trust Fund

An original signed duplicate of the Remediation Trust Fund shall be submitted along with a certification available from NJDEP within 14 days of receipt of Remedial Action Workplan approval or as specified in a Remediation Agreement.

A [SELF-GUARANTEE](#) allows a corporation to prove to NJDEP that it has the sufficient funds for the remediation of a site.

- a. Self-Guarantor: Person or Corporation acceptable to NJDEP.
- b. Self-Guarantee Requirements:
 - Estimated cost to cleanup does not exceed one-third of the corporation's tangible net worth
 - sufficient cash flow (gross receipts exceed gross payments in that fiscal year in an amount at least equal to the estimated remedial costs to completed in the next 12 month period)
- c. Self-Guarantee Guidelines: See attached.
- d. Submission of Self-Guarantee

A self-guarantee application shall be submitted along with a certification available from NJDEP within 14 days of receipt of Remedial Action Workplan approval or as specified in a Remediation Agreement.

REMEDATION FUNDING SOURCE SURCHARGE

There is imposed with every person who is required to establish and maintain a remediation funding source pursuant to N.J.S.A. 58:10B-3 a remediation funding source surcharge in amount equal to 1% of the required remediation funding source.

This amount is payable to:

"New Jersey Economic Development Authority (NJEDA) - Hazardous Discharge Remediation Fund"

The 1% Surcharge is to be submitted with the remediation funding source and paid on an annual basis.

NOTE: No Surcharge shall be paid on any portion of the remediation funding source provided in the form of Self-Guarantee and/or a loan or grant.

Common Questions

1. When is an industrial establishment subject to ISRA?

In order to be subject to ISRA, all of the following four conditions must exist:

- a. The business must have a subject Standard Industrial Classification (SIC);
- b. An applicable transaction (change in ownership or cessation of operation), as specified in ISRA, must exist;
- c. Operations of an industrial establishment must have been conducted after December 31, 1983; and
- d. Hazardous substances or hazardous wastes were on-site. For small quantities of hazardous substances, refer to the DeMinimis Quantity Exemption section of ISRA, N.J.S.A. 13:1K-9.7.

2. What Standard Industrial Classification (SIC) numbers are covered by ISRA?

The major groups covered are SIC numbers 22-39, 46-49, 51, and 76. In addition, the regulations also exempt many subgroups within these major groups, N.J.A.C. 7:26B-1.8. If a business does not have an applicable SIC, then it is not subject to ISRA.

3. Can NJDEP process a Letter or Non-Applicability without a SIC number?

To receive a timely review, a complete application is necessary. However, as long as a complete and detailed description of on-site operations is included in Section E of the Application For An Applicability Determination, a review can be completed. Be advised that this may cause a delay in the process of the application. The SIC can be determined by referencing the Standard Industrial Classification (SIC) manual prepared by the Office of management and Budget in the Executive Office of the President of the United States. The SIC manual should be available in local libraries.

4. Why are Letters of Non-Applicability (LNA) requested?

Mortgage bankers, attorneys and purchasers who are concerned with possible applications of ISRA often require sellers of properties or businesses to demonstrate that pending transactions are not subject to ISRA. The issuing of applicability determinations or letters of non-applicability is not a statutory requirement, but a service NJDEP provides for a fee.

5. Are all LNA requests granted?

Approximately 95 percent of applications to the NJDEP receive Letters of Non-Applicability, while the remaining requests are determined to be subject to ISRA. All applicability determinations are based on the review of the required application.

6. How long does it take to receive an applicability determination?

It takes an average of 5 days after the NJDEP receives a complete application for transactions or situations that are clearly not subject and an average of 14 days for more complex reviews which may require site inspections.

7. How long is a LNA good for?

A LNA is good as long as the information certified to in the application is still valid.

8. Do I have to get an LNA to sell my property or transfer ownership?

No. No one is required to apply for a LNA. If someone such as a buyer or banker requires a LNA, the NJDEP is able to provide the service through the LNA process.

9. If I am in a multi-tenant building, do I need separate applications or fees for each tenant?

The NJDEP will process this type of application as one application with one fee if the applicant attaches a list of all the tenants, past and present, along with the dates of their tenancy and a description of operations for each tenant and all other required information.

10. Who may I speak with about an ISRA subject case?

Usually cases are assigned to a case manager within a few days. If the case has not been assigned to a case manager, you can speak to the supervisor or a staff member in the Initial Notice unit at 609-633-0708.

11. Is it necessary for individuals who are subject to ISRA to hire an attorney or environmental consultant to comply with the law?

That will depend on the complexity of the legal or environmental issues at a particular site. An applicant can work directly with the NJDEP staff before hiring an attorney or environmental consultant. However, in many cases, the issues can become very technical and it is best for the owner or operator to have someone knowledgeable in environmental affairs to assist them.

12. Does the NJDEP recommend environmental consultants?

No, the NJDEP does not make recommendations on environmental consultants. The complexity of the remediation should drive a person's decision for an environmental consultant. You may refer to the NJDEP guide for [Choosing an Environmental Consultant](#) for Site Remediation.

13. How long does it take to complete the ISRA process for a transaction to proceed?

That again will depend on the complexity of a particular site. However, the transaction may proceed earlier by executing a Remediation Agreement, which is handled by the Bureau of Fund Management, Compliance & Recovery (609) 633-1455. In addition, the Voluntary Cleanup Program, overseen by the Bureau of Field Operations (609) 633-0708 provides parties with the opportunity to obtain approvals prior to triggering ISRA. Once approvals have been granted the owner or operator could then proceed through with a expedited review process. If an owner or operator waits for a triggering event and the site needs little or no sampling, it takes an average of four months to complete the case. On the other hand, if the site requires extensive sampling to determine the nature and extent of any contamination and the possible development of a RAW, it could take a year or more to complete the remediation.

14. How can I get NJDEP oversight if my site is not subject to ISRA?

If an industrial establishment is not subject to ISRA or a triggering event did not yet occur and a person wants to conduct sampling and/or remediate a site with NJDEP oversight, the person may enter into a Memorandum of Agreement (MOA) under the Voluntary Cleanup Program. More information on the [Voluntary Cleanup Program](#) can be obtained by calling 609-292-2942.

15. Must NJDEP approve of all sampling and cleanup work at a site?

ISRA allows owners and operators to conduct their PA/SI/RI without NJDEP pre-approval of plans provided that the NJDEP's Technical Requirements for Site Remediation, N.J.A.C. 7:26E and an approved schedule is followed. An owner or operator of an industrial establishment may also implement a soil remedial action at an industrial establishment without prior NJDEP approval of a soil Remedial Action Workplan when the remedial action can reasonably be expected to be completed pursuant to standards, criteria, and time schedules established by the NJDEP, within exceed five years from the commencement of the implementation of the remedial action.

An owner or operator of an industrial establishment may not implement a remedial action involving the remediation of ground water or surface water without the prior approval by the NJDEP of a Remedial Action Workplan.

It may be beneficial to investigate suspected areas and perform limited cleanups for relatively minor situations prior to a formal ISRA submission. The regulated community must, however, be aware that discovery of any contamination must be immediately reported to state and local officials. The NJDEP 24 hour hotline is (609) 292-7172 or 1-877-WARNDEP.

16. What other guidance documents are available to help the regulated community comply with ISRA?

[The Guidance Document for the Remediation of Contaminated Soils; Groundwater Quality Standards](#) (N.J.A.C. 7:9-6); and
The Technical Requirements for Site Remediation (N.J.A.C. 7:26E)

are all available to assist in the evaluation of areas of potential environmental concern. These and many other guidance documents and publications are available via NJDEP's web site.

17. What is a Remediation Agreement?

A Remediation Agreement is a written contract entered into between an owner or operator of an industrial establishment and the NJDEP which allows the ISRA triggering event to proceed prior to the completion of all ISRA requirements. This agreement stipulates who will be responsible for the remediation of the site. The transaction may be consummated upon the execution of a Remediation Agreement by the NJDEP and the person responsible for compliance with the Remediation Agreement and prior to obtaining a No Further Action or Remedial Action Workplan approval.

18. What are the terms of a Remediation Agreement?

There are three general terms of a Remediation Agreement:

- a. specific timeframes that must be met in completing ISRA requirements;
- b. posting of a remediation funding source equal to the estimated cost of remediation; and
- c. penalties for failure to complete ISRA requirements.

19. When can I apply for a Remediation Agreement?

Applications can be filed at any time during the case, but prior to the completion of the standard ISRA administrative process.

20. How are the areas to be investigated under ISRA determined in a multi-tenant leasehold situation?

The area that must be investigated is the real property comprising the leasehold and any other property utilized in connection with the Industrial Establishment, including any storage areas, tanks, septic systems or other units that would be potential Areas of Concern under the Technical Requirements for Site Remediation (N.J.A.C. 7:26E). The property that is determined to be subject to ISRA review must be evaluated for both current and any historic areas of concern regardless of fault. For example, if the area of concern is on the leasehold or ever serviced the leasehold, it would be addressed under ISRA even if the tenant never used the area. However, if an area of concern was never used by the tenant, the area of concern is located off the leasehold portion and there has never been a connection during the tenancy, then the area of concern would not be addressed under ISRA.

21. Do I test a non-regulated UST when completing an application for an expedited review, limited site review, or remediation in progress waiver?

When applying for an expedited review, limited site review, or remediation in progress waiver, the owner or operator must certify that a PA/SI has been completed. For non-regulated UST's, the SI can only be completed if sampling is performed around the UST pursuant to the Technical Regulations for Site Remediation, N.J.A.C. 7:26E.

For questions regarding the ISRA process call (609) 777-0899. There is someone assigned to answer general questions.

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